

**97TH GENERAL ASSEMBLY****State of Illinois****2011 and 2012****SB2877**

Introduced 2/1/2012, by Sen. William R. Haine

SYNOPSIS AS INTRODUCED:

See Index

Amends the Insurance Code in the Article concerning insurance holding company systems. Makes changes to the definitions. Provides that a domestic company, either by itself or in cooperation with one or more persons, may organize or acquire one or more subsidiaries, and that the subsidiaries may conduct any kind of business or businesses and their authority to do so shall not be limited by reason of the fact that they are subsidiaries of a domestic company. Makes changes to the provisions concerning a domestic company's permitted investments. Includes certain filing requirements in the provision concerning the acquisition of control of or merger with a domestic company. Makes changes to provisions concerning the statement that is required to be filed with the Director of Insurance. Deletes certain provisions concerning deposits made with the Director, orders entered by the Director, and reports of potential adverse economic impact made to the General Assembly by the Director. Makes changes to the provisions concerning certain violations, judicial jurisdiction, acquisitions, registration statements, reporting materials, termination of registration, disclaimers, prior notification, officers and directors, examination, confidential treatment, voting, sanctions, and judicial review. . Sets forth provisions concerning summary filing, enterprise risk filing, violations, and supervisory colleges. Repeals a provision concerning the delivery of certain filings. Contains a severability provision. Effective on January 1, 2013.

LRB097 16448 RPM 61612 b

FISCAL NOTE ACT
MAY APPLY**A BILL FOR**

1 AN ACT concerning insurance.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Insurance Code is amended by
5 changing Sections 131.1, 131.2, 131.3, 131.4, 131.5, 131.6,
6 131.8, 131.8a, 131.11, 131.12, 131.12a, 131.13, 131.14,
7 131.16, 131.17, 131.18, 131.19, 131.20, 131.20a, 131.20b,
8 131.21, 131.22, 131.24, and 131.27 and by adding Sections
9 131.14a, 131.14b, 131.14c, and 131.20c as follows:

10 (215 ILCS 5/131.1) (from Ch. 73, par. 743.1)

11 Sec. 131.1. Definitions. As used in this Article, the
12 following terms have the respective meanings set forth in this
13 Section unless the context requires otherwise:

14 (a) An "affiliate" of, or person "affiliated" with, a
15 specific person, is a person that directly, or indirectly
16 through one or more intermediaries, controls, or is controlled
17 by, or is under common control with, the person specified.

18 (a-5) "Acquiring party" means such person by whom or on
19 whose behalf the merger or other acquisition of control
20 referred to in Section 131.4 is to be affected and any person
21 that controls such person or persons.

22 (a-10) "Company" has the same meaning as "company" as
23 defined in Section 2 of this Code, except that it does not

1 include agencies, authorities, or instrumentalities of the
2 United States, its possessions and territories, the
3 Commonwealth of Puerto Rico, the District of Columbia, or a
4 state or political subdivision of a state.

5 (b) "Control" (including the terms "controlling",
6 "controlled by" and "under common control with") means the
7 possession, direct or indirect, of the power to direct or cause
8 the direction of the management and policies of a person,
9 whether through the ownership of voting securities, the holding
10 of policyholders' proxies by contract other than a commercial
11 contract for goods or non-management services, or otherwise,
12 unless the power is solely the result of an official position
13 with or corporate office held by the person. Control is
14 presumed to exist if any person, directly or indirectly, owns,
15 controls, holds with the power to vote, or holds shareholders'
16 proxies representing 10% or more of the voting securities of
17 any other person, or holds or controls sufficient
18 policyholders' proxies to elect the majority of the board of
19 directors of the domestic company. This presumption may be
20 rebutted by a showing made in the manner as the Director may
21 provide by rule. The Director may determine, after furnishing
22 all persons in interest notice and opportunity to be heard and
23 making specific findings of fact to support such determination,
24 that control exists in fact, notwithstanding the absence of a
25 presumption to that effect.

26 (b-5) "Enterprise risk" means any activity, circumstance,

1 event, or series of events involving one or more affiliates of
2 a company that, if not remedied promptly, is likely to have a
3 material adverse effect upon the financial condition or
4 liquidity of the company or its insurance holding company
5 system as a whole, including, but not limited to, anything that
6 would cause the company's risk-based capital to fall into
7 company action level or would cause the company to be in
8 hazardous financial condition.

9 (c) "Insurance holding company system" means two or more
10 affiliated persons, one or more of which is an insurance
11 company as defined in paragraph (e) of Section 2 of this Code.

12 (d) ~~(Blank). "Company" has the same meaning as "Company" as~~
13 ~~defined in Section 2 of this Code, except that it does not~~
14 ~~include agencies, authorities or instrumentalities of the~~
15 ~~United States, its possessions and territories, the~~
16 ~~Commonwealth of Puerto Rico, the District of Columbia or a~~
17 ~~State or political subdivision of a State.~~

18 (d-5) "Non-operating holding company" is a general
19 business corporation functioning solely for the purpose of
20 forming, owning, acquiring, and managing subsidiary business
21 entities and having no other business operations not related
22 thereto.

23 (e) "Person" means an individual, a corporation, a limited
24 liability company, a partnership, an association, a joint stock
25 company, a trust, an unincorporated organization, any similar
26 entity or any combination of the foregoing acting in concert,

1 but does not include any securities broker performing no more
2 than the usual and customary broker's function or joint venture
3 partnership exclusively engaged in owning, managing, leasing
4 or developing real or tangible personal property other than
5 capital stock.

6 (e-5) "Policyholders' proxies" are proxies that give the
7 holder the right to vote for the election of the directors and
8 other corporate actions not in the day to day operations of the
9 company.

10 (f) (Blank). ~~"Securityholder" of a specified person is one~~
11 ~~who owns any security of such person, including common stock,~~
12 ~~preferred stock, debt obligations, and any other security~~
13 ~~convertible into or evidencing the right to acquire any of the~~
14 ~~foregoing.~~

15 (g) "Subsidiary" of a specified person is an affiliate
16 controlled by such person directly, or indirectly through one
17 or more intermediaries.

18 (h) "Voting Security" is a security which gives to the
19 holder thereof the right to vote for the election of directors
20 and includes any security convertible into or evidencing a
21 right to acquire a voting security.

22 (i) (Blank). ~~"Acquiring Party" means such person by whom or~~
23 ~~on whose behalf the merger or other acquisition of control~~
24 ~~referred to in Section 131.4 is to be affected and any person~~
25 ~~that controls such person or persons.~~

26 (j) (Blank). ~~"Policyholders' Proxies" are proxies which~~

1 ~~give the holder the right to vote for the election of the~~
2 ~~directors and other corporate actions not in the day-to-day~~
3 ~~operations of the company.~~

4 (k) (Blank). ~~"Non-operating Holding Company" is a general~~
5 ~~business corporation functioning solely for the purpose of~~
6 ~~forming, owning, acquiring and managing subsidiary business~~
7 ~~entities and having no other business operations not related~~
8 ~~thereto.~~

9 (Source: P.A. 84-805.)

10 (215 ILCS 5/131.2) (from Ch. 73, par. 743.2)

11 Sec. 131.2. Subsidiaries. A domestic company, either by
12 itself or in cooperation with one or more persons, may organize
13 or acquire one or more subsidiaries. The subsidiaries may
14 conduct any kind of business or businesses and their authority
15 to do so shall not be limited by reason of the fact that they
16 are subsidiaries of a domestic company. In addition to
17 investments in common stock, preferred stock, debt obligations
18 and other securities of subsidiaries permitted under all other
19 sections of this Code, a domestic company, other than a company
20 subject to Articles XVIII or XIX, may also:

21 (a) invest, in common stock, preferred stock, debt
22 obligations, and other securities of one or more
23 subsidiaries, amounts which do not exceed the lesser of 10%
24 of the company's assets or 50% of the company's surplus as
25 regards policyholders, but after such investments the

1 company's surplus as regards policyholders must be
2 reasonable in relation to the company's outstanding
3 liabilities and adequate to its financial needs. In
4 calculating the amount of such investments, there must be
5 included (i) total net monies or other consideration
6 expended and obligations assumed in the acquisition or
7 formation of a subsidiary, including all organizational
8 expenses and contributions to capital and surplus of the
9 subsidiary whether or not represented by the purchase of
10 capital stock or issuance of other securities, and (ii) all
11 amounts expended in acquiring additional common stock,
12 preferred stock, debt obligations, and other securities,
13 and all contributions to the capital or surplus of a
14 subsidiary subsequent to its acquisition or formation;

15 (b) invest any amount in common stock, preferred stock,
16 debt obligations and other securities of one or more direct
17 subsidiaries acting only as a non-operating holding
18 company or engaged or organized exclusively for the
19 ownership and management of assets authorized as
20 investments for the company, provided that each subsidiary
21 agrees to limit its investments in any asset so that such
22 investments will not cause the amount of the total
23 investment of the company to exceed the amount the company
24 could have invested in such asset. For the purpose of this
25 clause, "the total investment of the company" will include
26 (i) any direct investment by the company in an asset and

1 (ii) the company's proportionate share of any investment in
2 such asset by any ~~direct~~ subsidiary of the company, which
3 must be calculated by multiplying the amount of the
4 subsidiary's investment by the percentage of the company's
5 ownership of such subsidiary;

6 (c) invest in common stock of one or more insurance
7 corporation subsidiaries any amount by which the investing
8 company's capital and surplus exceeds the minimum capital
9 and surplus required of a new company under Section 13 to
10 qualify for a certificate of authority to write the kind or
11 kinds of insurance which the company is authorized to
12 write, if the company is a stock company, and if the
13 company is other than a stock company, the company may
14 invest the amount by which the company's surplus exceeds
15 the minimum surplus required of a new company under Section
16 43 or 66 to qualify for a certificate of authority to write
17 the kind or kinds of insurance which the company is
18 authorized to write;

19 (d) with the approval of the Director, invest any
20 greater amount in common stock, preferred stock, debt
21 obligations, or other securities of one or more
22 subsidiaries, but after such investment the company's
23 surplus as regards policyholders must be reasonable in
24 relation to the company's outstanding liabilities and
25 adequate to its financial needs.

26 (Source: P.A. 85-1186.)

1 (215 ILCS 5/131.3) (from Ch. 73, par. 743.3)

2 Sec. 131.3. (1) Investments in common stock, preferred
3 stock, debt obligations or other securities of subsidiaries
4 made under Section 131.2 of this Article are subject to
5 Sections 126.3, 126.4, 126.5, 126.6, 126.7, and 133 of this
6 Code but are not subject to any other of the otherwise
7 applicable restrictions or prohibitions contained in this Code
8 applicable to such investments of a domestic company subject to
9 this Code.

10 (2) If a company ceases to control a subsidiary, it must
11 dispose of any investment therein made under this section
12 within 3 years from the time of the cessation of control or
13 within such further time as the Director may prescribe, unless
14 at any time after the investment is made, the investment meets
15 the requirements for investment under any other section of this
16 Code, and the company has notified the Director thereof.

17 (3) Whether any investment made pursuant to this Section
18 meets the applicable requirements of this Section is to be
19 determined before the investment is made by calculating the
20 applicable investment limitations as though the investment had
21 already been made, taking into account the then outstanding
22 principal balance on all previous investments in debt
23 obligations, and the value of all previous investments in
24 equity securities as of the day they were made, net of any
25 return of capital invested, not including dividends.

1 (Source: P.A. 90-418, eff. 8-15-97.)

2 (215 ILCS 5/131.4) (from Ch. 73, par. 743.4)

3 Sec. 131.4. Acquisition of control of or merger with
4 domestic company.

5 (a) No person other than the issuer may make a tender for
6 or a request or invitation for tenders of, or enter into an
7 agreement to exchange securities for, seek to acquire, or
8 acquire in the open market, or otherwise, any voting security
9 of a domestic company or acquire policyholders' proxies of a
10 domestic company for consideration if, after the consummation
11 thereof, that person would, directly or indirectly, (or by
12 conversion or by exercise of any right to acquire) be in
13 control of the company, and no person may enter into an
14 agreement to merge or consolidate with or otherwise to acquire
15 control of a domestic company, unless the offer, request,
16 invitation, or agreement is conditioned on receiving the
17 approval of the Director based on Section 131.8 of this Article
18 and no such acquisition of control or a merger with a domestic
19 company may be consummated unless the person has filed with the
20 Director and has sent to the company a statement containing the
21 information required by Section 131.5, and the Director has
22 approved the transaction or granted an exemption. ~~For purposes~~
23 ~~of this Section a domestic company includes any other person~~
24 ~~which controls a domestic company or holds or controls~~
25 ~~sufficient policyholders' proxies to elect the majority of the~~

1 ~~board of directors of the domestic company.~~ Prior to the
2 acquisition, the Director may conclude that a statement need
3 not be filed by the acquiring party if the acquiring party
4 demonstrates to the satisfaction of the Director that:

5 (1) such transaction will not result in the change of
6 control of the domestic company; or

7 (2) (blank); ~~the person which is subject to the~~
8 ~~acquisition has assets in excess of \$1,000,000 and~~
9 ~~shareholders of record of 500 or more and its insurance~~
10 ~~business either directly or through its affiliates is an~~
11 ~~insignificant portion of its total business; or~~

12 (3) the acquisition of, or attempt to acquire control
13 of, such other person is subject to requirements in the
14 jurisdiction of its domicile which are substantially
15 similar to those contained in this Section and Sections
16 131.5 through 131.12a ~~131.12~~; or

17 (4) the control of the policyholders' proxies is being
18 acquired solely by virtue of the holders official office
19 and not as the result of any agreement or for any
20 consideration.

21 The purpose of this Section is to afford to the
22 Director the opportunity to review acquisitions in order to
23 determine whether or not the acquisition would be adverse
24 to the interests of the existing and future policyholders
25 of the company.

26 (b) For purposes of this Section, any controlling person of

1 a domestic company seeking to divest its controlling interest
2 in the domestic company in any manner shall file with the
3 Director, with a copy to the company, confidential notice of
4 its proposed divestiture at least 30 days prior to the
5 cessation of control. The Director shall determine those
6 instances in which the parties seeking to divest or to acquire
7 a controlling interest in a company shall be required to file
8 for and obtain approval of the transaction. The information
9 shall remain confidential until the conclusion of the
10 transaction unless the Director, in his or her discretion,
11 determines that confidential treatment shall interfere with
12 enforcement of this Section. If the statement referred to in
13 subsection (a) of this Section is otherwise filed, this
14 subsection (b) shall not apply.

15 (c) For purposes of this Section, a domestic company shall
16 include any person controlling a domestic company unless the
17 person, as determined by the Director, is either directly or
18 through its affiliates primarily engaged in business other than
19 the business of insurance. For the purposes of this Section,
20 "person" shall not include any securities broker holding, in
21 the usual and customary broker's function, less than 20% of the
22 voting securities of an insurance company or of any person that
23 controls an insurance company.

24 (Source: P.A. 86-784.)

25 (215 ILCS 5/131.5) (from Ch. 73, par. 743.5)

1 Sec. 131.5. Statement-Contents. In order to seek the
2 approval of the Director pursuant to Section 131.8, the
3 applicant must file a statement with the Director under oath or
4 affirmation which contains as a minimum the following
5 information:

6 (1) The name and address of each acquiring party, and

7 (a) if such person is an individual, his principal
8 occupation and all offices and positions held during the past 5
9 years, and any conviction of crimes, other than minor traffic
10 violations, during the past 10 years;

11 (b) if such person is not an individual, a report of the
12 nature of its business operations during the past 5 years or
13 for such lesser period as the person and any predecessors
14 thereof has been in existence; an informative description of
15 the business intended to be conducted by the person and the
16 person's subsidiaries; and a list of all individuals who are or
17 who have been selected to become directors or executive
18 officers of the person, or who perform or will perform
19 functions appropriate to such positions. The list must include
20 for each individual the information required by subsection
21 (1) (a).

22 (2) The source, nature and amount of the consideration used
23 or to be used in effecting the merger, consolidation or other
24 acquisition of control, a description of any transaction
25 wherein funds were or are to be obtained for any such purpose,
26 including any pledge of the company's own securities or the

1 securities of any of its subsidiaries or affiliates, and the
2 identity of persons furnishing such consideration. However,
3 where a source of such consideration is a loan made in the
4 lender's ordinary course of business, the identity of the
5 lender must remain confidential, if the person filing the
6 statement so requests.

7 (3) Financial information as to the earnings and financial
8 condition of each acquiring party for the preceding 5 fiscal
9 years of each acquiring party (or for such lesser period as the
10 acquiring party and any predecessors thereof have been in
11 existence) audited by an independent certified public
12 accountant in accordance with generally accepted auditing
13 standards and similar unaudited information ~~for the second and~~
14 ~~third preceding fiscal years and~~ as of a date not earlier than
15 90 days prior to the filing of the statement. ~~If an acquiring~~
16 ~~party is an insurer which has been actively engaged in the~~
17 ~~business of insurance for 10 years, the financial information~~
18 ~~need not be audited, provided it is based on the annual~~
19 ~~statements of such acquiring person filed with the insurance~~
20 ~~department of the person's domiciliary state and is in~~
21 ~~accordance with the requirement of insurance or other~~
22 ~~accounting principles prescribed or permitted under the laws~~
23 ~~and regulations of such state.~~

24 (a) (Blank). ~~When an applicant is controlled by an~~
25 ~~individual, financial information for that individual will not~~
26 ~~be required if the applicant is currently subject to the~~

1 ~~registration and reporting requirements of Section 12(g) of the~~
2 ~~Securities Exchange Act of 1934 or is an insurer which has been~~
3 ~~actively engaged in the business of insurance for a period in~~
4 ~~excess of 10 years;~~

5 (b) (Blank). ~~When an individual as an acquiring party must~~
6 ~~file financial information under this paragraph such~~
7 ~~information need not be delivered to the company. However, such~~
8 ~~information shall be available if the Director holds a hearing~~
9 ~~pursuant to Section 131.8.~~

10 (4) Any plans or proposals which each acquiring party may
11 have to liquidate such company, to sell its assets or merge or
12 consolidate it with any person, or to make any other material
13 change in its business or corporate structure or management.

14 (5) The number of shares of any security referred to in
15 Section 131.4 which each acquiring party proposes to acquire,
16 ~~and~~ the terms of the offer, request, invitation, agreement, or
17 acquisition referred to in Section 131.4, and a statement as to
18 the method by which the fairness was arrived.

19 (6) The amount of each class of any security referred to in
20 Section 131.4 which is beneficially owned or concerning which
21 there is a right to acquire beneficial ownership by each
22 acquiring party.

23 (7) A full description of any existing contracts,
24 arrangements or understandings with respect to any security
25 referred to in Section 131.4 in which any acquiring party is
26 involved, including but not limited to transfer of any of the

1 securities, joint ventures, loan or option arrangements, puts
2 or calls, guarantees of loans, guarantees against loss or
3 guarantees of profits, division of losses or profits, or the
4 giving or withholding of proxies. The description must identify
5 the persons with whom such contracts, arrangements or
6 understandings have been entered into.

7 (8) A description of the acquisition of any security or
8 policyholders' proxy referred to in Section 131.4 during the 12
9 calendar months preceding the filing of the statement, by any
10 acquiring party, including the dates of acquisition, names of
11 the acquiring parties ~~acquirers~~, and consideration paid or
12 agreed to be paid therefor.

13 (9) A description of any recommendations to acquire any
14 security referred to in Section 131.4 made during the 12
15 calendar months preceding the filing of the statement, by any
16 acquiring party, or by anyone based upon interviews or at the
17 suggestion of such acquiring party.

18 (10) Copies of all tender offers for, requests or
19 invitations for tenders of, exchange offers for, and agreements
20 to acquire or exchange any securities referred to in Section
21 131.4, and (if distributed) of additional soliciting material
22 relating thereto.

23 (11) The terms of any agreement, contract or understanding
24 made with, or proposed to be made with, any broker-dealer as to
25 solicitation of securities referred to in Section 131.4 for
26 tender, and the amount of any fees, commissions or other

1 compensation to be paid to broker-dealers with regard thereto.

2 (12) An agreement by the person required to file the
3 statement referred to in this Section 131.5 that it shall
4 provide the annual report specified in Section 131.20c for so
5 long as control exists.

6 (13) An acknowledgement by the person required to file the
7 statement referred to in this Section 131.5 that the person and
8 all subsidiaries within its control in the insurance holding
9 company system shall provide information to the Director upon
10 request as necessary to evaluate enterprise risk to the
11 insurer.

12 (14) Any additional information as the Director may by rule
13 or regulation prescribe as necessary or appropriate for the
14 protection of policyholders or in the public interest.

15 (Source: P.A. 84-805.)

16 (215 ILCS 5/131.6) (from Ch. 73, par. 743.6)

17 Sec. 131.6. (1) If the person required to file the
18 statement referred to in Section 131.5 is a partnership,
19 limited partnership, syndicate or other group, the Director may
20 require that the information be given with respect to each
21 partner of such partnership or limited partnership, each member
22 of such syndicate or group, and each person who controls such
23 partner or member. If any partner, member or person is a
24 corporation or the person required to file the statement
25 referred to in Section 131.5 is a corporation, the Director may

1 require that the information be given with respect to the
2 corporation, each officer and director of the corporation, and
3 each person who is directly or indirectly the beneficial owner
4 of more than 10% of the outstanding voting securities of the
5 corporation.

6 (2) If any material change occurs in the facts set forth in
7 the statement filed with the Director and sent to the company
8 under Section 131.5 ~~131.9~~, an amendment setting forth the
9 change, together with copies of all documents and other
10 material relevant to the change, must be filed with the
11 Director and sent to the company within 2 business days after
12 the person learns of the change.

13 (Source: P.A. 84-805.)

14 (215 ILCS 5/131.8) (from Ch. 73, par. 743.8)

15 Sec. 131.8. (1) After the statement required by Section
16 131.5 has been filed, the Director shall approve ~~must~~
17 ~~disapprove~~ any merger, consolidation or other acquisition of
18 control referred to in Section 131.4 unless ~~the acquiring party~~
19 ~~demonstrates to~~ the Director finds that:

20 (a) After the change of control the domestic company
21 referred to in Section 131.4 would not be able to satisfy
22 the requirements for the issuance of a license to write the
23 line or lines of insurance for which it is presently
24 licensed;

25 (b) the effect of the merger, consolidation or other

1 acquisition of control would be to ~~not~~ substantially lessen
2 competition in insurance in this State or not tend to
3 create a monopoly therein. In applying the competitive
4 standard in this paragraph:

5 (i) the informational requirements of subsection
6 (3)(a) and the standards of subsection (4)(b) of
7 Section 131.12a shall apply,

8 (ii) the merger or other acquisition shall not be
9 disapproved if the Director finds ~~acquiring party~~
10 ~~demonstrates~~ that any of the situations meeting the
11 criteria provided by subsection (4)(c) of Section
12 131.12a exist, and

13 (iii) the Director may condition the approval of
14 the merger or other acquisition on the removal of the
15 basis of disapproval within a specified period of time;

16 (c) the financial condition of any acquiring party is
17 such as might ~~to not~~ jeopardize the financial stability of
18 the domestic company or ~~not~~ jeopardize the interests of its
19 policyholders;

20 (d) the plans or proposals which the acquiring party
21 has to liquidate the domestic company, sell its assets or
22 consolidate or merge it with any person, or to make any
23 other material change in its business or corporate
24 structure or management, are unfair ~~fair~~ and unreasonable
25 ~~reasonable~~ to policyholders of such company and not in the
26 public interest; or

1 (e) the competence, experience and integrity of those
2 persons who would control the operation of the domestic
3 company are such that it would be in the best interests of
4 policyholders of such company and of the insurance buying
5 public to permit the merger, consolidation or other
6 acquisition of control.

7 (2) The Director may hold a public hearing on any merger,
8 consolidation or other acquisition of control referred to in
9 Section 131.4 if the Director determines that the statement
10 filed as required by Section 131.5 does not demonstrate
11 compliance with the standards referred to in subsection (1), of
12 this Section, or if he determines that such acquisition of
13 control is likely to be hazardous or prejudicial to the ~~will~~
14 ~~adversely affect policyholders or the~~ insurance buying public.

15 (3) The public hearing referred to in subsection (2) must
16 be held within 30 ~~60~~ days after the statement required by
17 Section 131.5 is filed, and at least 20 days' notice thereof
18 must be given by the Director to the person filing the
19 statement and to the domestic company. Not less than 7 ~~12~~ days'
20 notice of such hearing must be given by the person filing the
21 statement to such other persons as may be designated by the
22 Director and by the company to its securityholders. The
23 Director must make a determination within 60 ~~30~~ days after the
24 conclusion of the hearing. At the hearing, the person filing
25 the statement, the domestic company, any person to whom notice
26 of the hearing was sent, and any other person whose interests

1 may be affected thereby has the right to present evidence,
2 examine and cross-examine witnesses, and offer oral and written
3 arguments and in connection therewith is entitled to conduct
4 discovery proceedings in the same manner as is presently
5 allowed in the Circuit Courts of this State. All discovery
6 proceedings must be concluded not later than 3 days prior to
7 the commencement of the public hearing.

8 (4) If the proposed acquisition of control will require the
9 approval of more than one state insurance commissioner, the
10 public hearing referred to in subsection (2) of this Section
11 may be held on a consolidated basis upon request of the person
12 filing the statement referred to in Section 131.5 of this Code.
13 Such person shall file the statement referred to in Section
14 131.5 of this Code with the National Association of Insurance
15 Commissioners (NAIC) within 5 days after making the request for
16 a public hearing. A commissioner may opt out of a consolidated
17 hearing, and shall provide notice to the applicant of the opt
18 out within 10 days after the receipt of the statement referred
19 to in Section 131.5 of this Code. A hearing conducted on a
20 consolidated basis shall be public and shall be held within the
21 United States before the commissioners of the states in which
22 the insurers are domiciled. Such commissioners shall hear and
23 receive evidence. A commissioner may attend such hearing, in
24 person or by telecommunication.

25 (5) In connection with a change of control of a domestic
26 company, any determination by the Director that the person

1 acquiring control of the company shall be required to maintain
2 or restore the capital of the company to the level required by
3 the laws and regulations of this State shall be made not later
4 than 60 days after the date of notification of the change in
5 control.

6 (Source: P.A. 84-805.)

7 (215 ILCS 5/131.8a) (from Ch. 73, par. 743.8a)

8 Sec. 131.8a. The Director may retain at the applicant's
9 expense any attorneys, actuaries, accountants and other
10 experts not otherwise a part of the Director's staff as may be
11 reasonably necessary to assist in reviewing ~~the conduct of~~
12 ~~financial or character examinations in conjunction with an~~
13 acquisition proposed under Section 131.4. ~~The applicant shall~~
14 ~~deposit with the Director cash, bonds or securities, acceptable~~
15 ~~to the Director, in a reasonable amount not to exceed \$100,000,~~
16 ~~for purpose of securing the payment of any expert's cost.~~

17 (Source: P.A. 86-753.)

18 (215 ILCS 5/131.11) (from Ch. 73, par. 743.11)

19 Sec. 131.11. The following are violations of Sections 131.4
20 through 131.12:

21 (1) the failure to file any statement, amendment, or other
22 material required to be filed under Sections 131.4 or 131.5; or

23 (2) the effectuation or any attempt to effectuate an
24 acquisition of control of, divestiture of, or merger or

1 consolidation with, a domestic company unless the Director has
2 given his approval thereto.

3 (Source: P.A. 77-673.)

4 (215 ILCS 5/131.12) (from Ch. 73, par. 743.12)

5 Sec. 131.12. The courts of this State are hereby vested
6 with jurisdiction over every person not resident, domiciled, or
7 authorized to do business in this State who files a statement
8 with the Director under Section 131.4, and over all actions
9 involving such person arising out of violations of Sections
10 131.4, 131.5, 131.6, ~~131.9~~ or 131.11, and each such person is
11 deemed to have performed acts equivalent to and constituting an
12 appointment by such a person of the Director to be his true and
13 lawful attorney upon whom may be served all lawful process in
14 any action, suit or proceeding arising out of violations of
15 Sections 131.4, 131.5, 131.6, ~~131.9~~ or 131.11. Copies of all
16 such lawful process must be served on the Director and
17 transmitted by registered or certified mail by the Director to
18 such person at his last known address.

19 (Source: P.A. 77-673.)

20 (215 ILCS 5/131.12a) (from Ch. 73, par. 743.12a)

21 Sec. 131.12a. Acquisitions involving insurers not
22 otherwise covered.

23 (1) Definitions. The following definitions shall apply for
24 the purposes of this Section only:

1 (a) "Acquisition" means any agreement, arrangement or
2 activity the consummation of which results in a person
3 acquiring directly or indirectly the control of another person
4 or control of the insurance in force of another person, and
5 includes but is not limited to the acquisition of voting
6 securities, the acquisition of assets, the transaction of bulk
7 reinsurance and the act of merging or consolidating.

8 (b) An "involved insurer" includes an insurer which either
9 acquires or is acquired, is affiliated with an acquirer or
10 acquired or is the result of a merger.

11 (2) Scope.

12 (a) Except as exempted in paragraph (b) of this subsection
13 (2), this Section applies to any acquisition in which there is
14 a change in control of an insurer authorized to do business in
15 this State.

16 (b) This Section shall not apply to the following:

17 (i) an acquisition subject to approval or disapproval
18 by the Director pursuant to Section 131.8;

19 (ii) a purchase of securities solely for investment
20 purposes so long as such securities are not used by voting
21 or otherwise to cause or attempt to cause the substantial
22 lessening of competition in any insurance market in this
23 State. If a purchase of securities results in a presumption
24 of control under subsection (b) of Section 131.1, it is not
25 solely for investment purposes unless the commissioner of

1 the insurer's state of domicile accepts a disclaimer of
2 control or affirmatively finds that control does not exist
3 and such disclaimer action or affirmative finding is
4 communicated by the domiciliary commissioner to the
5 Director of this State;

6 (iii) the acquisition of a person by another person
7 when both persons are neither directly nor through
8 affiliates primarily engaged in the business of insurance,
9 if pre-acquisition notification is filed with the Director
10 in accordance with subsection (3)(a) of this Section, 30
11 days prior to the proposed effective date of the
12 acquisition. However, such pre-acquisition notification is
13 not required for exclusion from this Section if the
14 acquisition would otherwise be excluded from this Section
15 by any other subparagraph of subsection (2)(b);

16 (iv) the acquisition of already affiliated persons;

17 (v) an acquisition if, as an immediate result of the
18 acquisition,

19 (A) in no market would the combined market share of
20 the involved insurers exceed 5% of the total market,

21 (B) there would be no increase in any market share,
22 or

23 (C) in no market would the combined market share of
24 the involved insurers exceed 12% of the total market,
25 and the market share increase by more than 2% of the
26 total market.

1 For the purpose of this subparagraph (b) (v), "market"
2 means direct written insurance premium in this State for a
3 line of business as contained in the annual statement
4 required to be filed by insurers licensed to do business in
5 this State;

6 (vi) an acquisition for which a pre-acquisition
7 notification would be required pursuant to this Section due
8 solely to the resulting effect on the ocean marine
9 insurance line of business;

10 (vii) an acquisition of an insurer whose domiciliary
11 commissioner affirmatively finds that such insurer is in
12 failing condition; there is a lack of feasible alternative
13 to improving such condition; the public benefits of
14 improving such insurer's condition through the acquisition
15 exceed the public benefits that would arise from not
16 lessening competition; and such findings are communicated
17 by the domiciliary commissioner to the Director of this
18 State.

19 (3) Pre-acquisition Notification; Waiting Period. An
20 acquisition covered by subsection (2) may be subject to an
21 order pursuant to subsection (5) unless the acquiring person
22 files a pre-acquisition notification and the waiting period has
23 expired. The acquired person may file a pre-acquisition
24 notification. The Director shall give confidential treatment
25 to information submitted under this subsection in the same

1 manner as provided in Section 131.22 of this Article.

2 (a) The pre-acquisition notification shall be in such form
3 and contain such information as prescribed by the Director,
4 which shall conform substantially to the form of notification
5 adopted by the National Association of Insurance Commissioners
6 relating to those markets which, under subsection (b)(v) of
7 Section (2), cause the acquisition not to be exempted from the
8 provisions of this Section. The Director may require such
9 additional material and information as he deems necessary to
10 determine whether the proposed acquisition, if consummated,
11 would violate the competitive standard of subsection (4). The
12 required information may include an opinion of an economist as
13 to the competitive impact of the acquisition in this State
14 accompanied by a summary of the education and experience of
15 such person indicating his or her ability to render an informed
16 opinion.

17 (b) The waiting period required shall begin on the date of
18 the receipt by the Director of a pre-acquisition notification
19 and shall end on the earlier of the 30th day after the date of
20 such receipt, or termination of the waiting period by the
21 Director. Prior to the end of the waiting period, the Director
22 on a one time basis may require the submission of additional
23 needed information relevant to the proposed acquisition, in
24 which event the waiting period shall end on the earlier of the
25 30th day after the receipt of such additional information by
26 the Director or termination of the waiting period by the

1 Director.

2 (4) Competitive Standard.

3 (a) The Director may enter an order under subsection (5) (a)
4 with respect to an acquisition if there is substantial evidence
5 that the effect of the acquisition may be substantially to
6 lessen competition in any line of insurance in this State or
7 tend to create a monopoly therein or if the insurer fails to
8 file adequate information in compliance with subsection (3).

9 (b) In determining whether a proposed acquisition would
10 violate the competitive standard of paragraph (a) of this
11 subsection the Director shall consider the following:

12 (i) any acquisition covered under subsection (2)
13 involving 2 or more insurers competing in the same market
14 is prima facie evidence of violation of the competitive
15 standards:

16 (A) if the market is highly concentrated and the
17 involved insurers possess the following shares of the
18 market:

19	Insurer A	Insurer B
20	4%	4% or more
21	10%	2% or more
22	15%	1% or more

23 (B) if the market is not highly concentrated and
24 the involved insurers possess the following shares of
25 the market:

	Insurer A	Insurer B
1		
2	5%	5% or more
3	10%	4% or more
4	15%	3% or more
5	19%	1% or more

6 A highly concentrated market is one in which the share
7 of the 4 largest insurers is 75% or more of the market.
8 Percentages not shown in the tables are to be interpolated
9 proportionately to the percentages that are shown. If more
10 than 2 insurers are involved, exceeding the total of the 2
11 columns in the table is prima facie evidence of violation
12 of the competitive standard in paragraph (a) of this
13 subsection. For the purpose of this subparagraph, the
14 insurer with the largest share of the market shall be
15 deemed to be Insurer A.

16 (ii) There is a significant trend toward increased
17 concentration when the aggregate market share of any
18 grouping of the largest insurers in the market from the 2
19 largest to the 8 largest has increased by 7% or more of the
20 market over a period of time extending from any base year
21 5-10 years prior to the acquisition up to the time of the
22 acquisition. Any acquisition covered under subsection (2)
23 involving 2 or more insurers competing in the same market
24 is prima facie evidence of violation of the competitive
25 standard in paragraph (a) of this subsection if:

26 (A) there is a significant trend toward increased

1 concentration in the market,

2 (B) one of the insurers involved is one of the
3 insurers in a grouping of such large insurers showing
4 the requisite increase in the market share, and

5 (C) another involved insurer's market is 2% or
6 more.

7 (iii) For the purpose of subsection (4) (b):

8 (A) The term "company" ~~"insurer"~~ includes any
9 company or group of companies under common management,
10 ownership or control.

11 (B) The term "market" means the relevant product
12 and geographic markets. In determining the relevant
13 product and geographical markets, the Director shall
14 give due consideration to, among other things, the
15 definitions or guidelines, if any, promulgated by the
16 National Association of Insurance Commissioners and to
17 information, if any, submitted by parties to the
18 acquisition. In the absence of sufficient information
19 to the contrary, the relevant product market is assumed
20 to be the direct written insurance premium for a line
21 of business with such line being that used in the
22 annual statement required to be filed by insurers doing
23 business in this State and the relevant geographical
24 market is assumed to be this State.

25 (C) The burden of showing prima facie evidence of
26 violation of the competitive standard rests upon the

1 Director.

2 (iv) Even though an acquisition is not prima facie
3 violative of the competitive standard under subparagraph
4 (b)(i) and (b)(ii) of this subsection the Director may
5 establish the requisite anticompetitive effect based upon
6 other substantial evidence. Even though an acquisition is
7 prima facie violative of the competitive standard under
8 subparagraphs (b)(i) and (b)(ii) of this subsection (4), a
9 party may establish the absence of the requisite
10 anticompetitive effect based upon other substantial
11 evidence. Relevant factors in making a determination under
12 this paragraph include, but are not limited to, the
13 following: market shares, volatility of ranking of market
14 leaders, number of competitors, concentration, trend of
15 concentration in the industry, and ease of entry and exit
16 into the market.

17 (c) An order may not be entered under subsection (5)(a) if:

18 (i) the acquisition will yield substantial economies
19 of scale or economies in resource utilization that cannot
20 be feasibly achieved in any other way, and the public
21 benefits which would arise from such economies exceed the
22 public benefits which would arise from not lessening
23 competition; or

24 (ii) the acquisition will substantially increase the
25 availability of insurance, and the public benefits of such
26 increase exceed the public benefits which would arise from

1 not lessening competition.

2 (5) Orders and Penalties:

3 (a) (i) If an acquisition violates the standard of this
4 Section, the Director may enter an order

5 (A) requiring an involved insurer to cease and
6 desist from doing business in this State with respect
7 to the line or lines of insurance involved in the
8 violation, or

9 (B) denying the application of an acquired or
10 acquiring insurer for a license to do business in this
11 State.

12 (ii) Such an order shall not be entered unless there is
13 a hearing, notice of such hearing is issued prior to the
14 end of the waiting period ~~and not less than 15 days prior~~
15 ~~to the end of the waiting period~~ and not less than 15 days
16 prior to the hearing, and the hearing is concluded and the
17 order is issued no later than 60 days after the end of the
18 waiting period. Every order shall be accompanied by a
19 written decision of the Director setting forth his findings
20 of fact and conclusions of law.

21 (iii) (Blank). ~~An order entered under this paragraph~~
22 ~~shall not become final earlier than 30 days after it is~~
23 ~~issued, during which time the involved insurer may submit a~~
24 ~~plan to remedy the anticompetitive impact of the~~
25 ~~acquisition within a reasonable time. Based upon such plan~~

1 ~~or other information, the Director shall specify, if any,~~
2 ~~the conditions under and the time period during which the~~
3 ~~aspects of the acquisition causing a violation of the~~
4 ~~standards of this Section would be remedied and the order~~
5 ~~vacated or modified.~~

6 (iv) An order pursuant to this paragraph shall not
7 apply if the acquisition is not consummated.

8 (b) Any person who violates a cease and desist order of the
9 Director under paragraph (a) and while such order is in effect
10 may after notice and hearing and upon order of the Director be
11 subject at the discretion of the Director to any one or more of
12 the following:

13 (i) a monetary penalty of not more than \$10,000 for
14 every day of violation or

15 (ii) suspension or revocation of such person's license
16 ~~or both.~~

17 (c) Any insurer or other person who fails to make any
18 filing required by this Section and who also fails to
19 demonstrate a good faith effort to comply with any such filing
20 requirement shall be subject to a civil penalty of not more
21 than \$50,000.

22 (6) Inapplicable Provisions. Subsections (2) and (3) of
23 Section 131.23 and Section 131.25 do not apply to acquisitions
24 covered under subsection (2).

25 (Source: P.A. 92-16, eff. 6-28-01.)

1 (215 ILCS 5/131.13) (from Ch. 73, par. 743.13)

2 Sec. 131.13. Registration of companies. Every company
3 which is authorized to do business in this State and which is a
4 member of an insurance holding company system must register
5 with the Director, except a foreign or alien company subject to
6 registration requirements and standards adopted by statute or
7 regulation in the jurisdiction of its domicile which are
8 substantially similar to those contained in this section and
9 Sections 131.14 through 131.19. Any company which is subject to
10 registration under this section must register within 60 days
11 after the effective date of this Article or 15 days after it
12 becomes subject to registration, whichever is later, unless the
13 Director for good cause shown extends the time for
14 registration, and then within such extended time. The Director
15 may require any authorized company which is a member of a
16 holding company system which is not subject to registration
17 under this section to furnish a copy of the registration
18 statement or other information filed by such company with the
19 insurance regulatory authority of its domiciliary
20 jurisdiction.

21 ~~If upon review of the information filed pursuant to this~~
22 ~~Section and the information included in the annual statement~~
23 ~~filed pursuant to Section 136, the Director determines there is~~
24 ~~a potential for adverse economic impact due to substantial~~
25 ~~ownership of companies authorized to do business in this State~~

1 ~~by persons who are not citizens or residents of the United~~
2 ~~States or entities which are not organized or created under the~~
3 ~~laws of any state or territory of the United States, he shall~~
4 ~~report such determination along with any legislative~~
5 ~~recommendations to the General Assembly.~~

6 (Source: P.A. 84-805.)

7 (215 ILCS 5/131.14) (from Ch. 73, par. 743.14)

8 Sec. 131.14. Every company subject to registration must
9 file a registration statement on a ~~in the~~ form and in a format
10 prescribed ~~designated~~ by the Director, which shall contain the
11 following ~~contains~~ current information ~~about~~:

12 (1) the capital structure, general financial condition,
13 ownership and management of the company and any person
14 controlling the company;

15 (2) the identity and relationship of every member of the
16 insurance holding company system;

17 (3) the following agreements in force, relationships
18 subsisting, and transactions currently outstanding or that
19 have occurred during the last calendar year between such
20 company and its affiliates:

21 (a) loans, other investments, or purchases, sales or
22 exchanges of ~~or~~ securities of the affiliates by the company or
23 of the company by its affiliates;

24 (b) purchases, sales, or exchanges of assets;

25 (c) transactions not in the ordinary course of business;

1 (d) guarantees or undertakings for the benefit of an
2 affiliate which result in an actual contingent exposure of the
3 company's assets to liability, other than insurance contracts
4 entered into in the ordinary course of the company's business;

5 (e) all management agreements, ~~and~~ service contracts, and
6 ~~all~~ cost-sharing arrangements, ~~other than cost allocation~~
7 ~~arrangements based upon generally accepted accounting~~
8 ~~principles;~~ and

9 (f) reinsurance agreements;

10 (f-5) dividends and other distributions to shareholders;

11 (g) any pledge of the company's own securities, securities
12 of any subsidiary or affiliate, to secure a loan made to any
13 member of the insurance holding company system; and

14 (h) consolidated tax allocation agreements;;

15 (4) (blank); ~~other matters concerning transactions between~~
16 ~~registered companies and any affiliates as may be included from~~
17 ~~time to time in any registration forms adopted or approved by~~
18 ~~the Director.~~

19 (5) financial statements of or within an insurance holding
20 company system, including all affiliates, if requested by the
21 Director; financial statements may include, but are not limited
22 to, annual audited financial statements filed with the U.S.
23 Securities and Exchange Commission (SEC) pursuant to the
24 Securities Act of 1933, as amended, or the Securities Exchange
25 Act of 1934, as amended; a company required to file financial
26 statements pursuant to this paragraph (5) may satisfy the

1 request by providing the Director with the most recently filed
2 parent corporation financial statements that have been filed
3 with the SEC;

4 (6) statements that the company's board of directors is
5 responsible for and oversees corporate governance and internal
6 controls and that the company's officers or senior management
7 have approved and implemented and continue to maintain and
8 monitor corporate governance and internal control procedures;
9 and

10 (7) other matters concerning transactions between
11 registered companies and any affiliates as may be included from
12 time to time in any registration forms adopted or approved by
13 the Director.

14 (Source: P.A. 84-805.)

15 (215 ILCS 5/131.14a new)

16 Sec. 131.14a. Summary filing. Every company subject to
17 registration must file a summary outlining all items in the
18 current registration statement representing changes from the
19 prior registration statement.

20 (215 ILCS 5/131.14b new)

21 Sec. 131.14b. Enterprise risk filing. The ultimate
22 controlling person of every company subject to registration
23 shall also file an annual enterprise risk report. The report
24 shall, to the best of the ultimate controlling person's

1 knowledge and belief, identify the material risks within the
2 insurance holding company system that could pose enterprise
3 risk to the company. The report shall be filed with the lead
4 state commissioner of the insurance holding company system as
5 determined by the procedures within the Financial Analysis
6 Handbook adopted by the National Association of Insurance
7 Commissioners.

8 (215 ILCS 5/131.14c new)

9 Sec. 131.14c. Violations. The failure to file a
10 registration statement or any summary of the registration
11 statement or enterprise risk filing required by this Article
12 within the time specified for filing shall be a violation of
13 this Article.

14 (215 ILCS 5/131.16) (from Ch. 73, par. 743.16)

15 Sec. 131.16. Reporting material changes or additions;
16 penalty for late registration statement.

17 (1) Each registered company must keep current the
18 information required to be included in its registration
19 statement by reporting all material changes or additions on
20 amendment forms designated by the Director within 15 days after
21 the end of the month in which it learns of each change or
22 addition, or within a longer time thereafter as the Director
23 may establish. Any transaction which has been submitted to the
24 Director pursuant to Section 131.20a need not be reported to

1 the Director under this subsection; except each registered
2 company must report all dividends and other distributions to
3 shareholders within 5 business days following the declaration
4 ~~and no less than 10 business days prior to payment thereof.~~

5 (2) On or before May 1 each year, each company subject to
6 registration under this Article shall file a statement in a
7 format as designated by the Director. This statement shall
8 include information previously included in an amendment under
9 subsection (1) of this Section, transactions and agreements
10 submitted under Section 131.20a, and any other material
11 transactions which are required to be reported.

12 (2.5) Any person within an insurance holding company system
13 subject to registration shall be required to provide complete
14 and accurate information to a company where the information is
15 reasonably necessary to enable the company to comply with the
16 provisions of this Article.

17 (3) Any company failing, without just cause, to file any
18 registration statement or any person within an insurance
19 holding company system who fails to provide complete and
20 accurate information to a company as required in this Code
21 shall be required, after notice and hearing, to pay a penalty
22 of up to \$1,000 for each day's delay, to be recovered by the
23 Director of Insurance of the State of Illinois and the penalty
24 so recovered shall be paid into the General Revenue Fund of the
25 State of Illinois. The maximum penalty under this section is
26 \$50,000. The Director may reduce the penalty if the company

1 demonstrates to the Director that the imposition of the penalty
2 would constitute a financial hardship to the company.

3 (Source: P.A. 88-364.)

4 (215 ILCS 5/131.17) (from Ch. 73, par. 743.17)

5 Sec. 131.17. (1) The Director must terminate the
6 registration of any company which demonstrates that it no
7 longer is a member of an insurance holding company system.

8 (2) The Director may require or allow 2 or more affiliated
9 companies subject to registration to file a consolidated
10 registration statement. ~~Two or more affiliated companies~~
11 ~~subject to registration hereunder may file a consolidated~~
12 ~~registration statement or consolidated reports amending their~~
13 ~~consolidated registration statement or their individual~~
14 ~~registration statements unless the Director requires a~~
15 ~~separate registration statement or report from each registered~~
16 ~~company.~~

17 (3) A company which is authorized to do business in this
18 State and which is part of an insurance holding company system
19 may register on behalf of any affiliated company which is
20 required to register under Section 131.13 and to file all
21 information and material required to be filed under this
22 Article unless the Director requires a separate registration by
23 the affiliated company.

24 (Source: P.A. 77-673.)

1 (215 ILCS 5/131.18) (from Ch. 73, par. 743.18)

2 Sec. 131.18. Sections 131.13 through 131.19 do not apply to
3 any company, information, or transaction if and to the extent
4 that the Director by rule, regulation, or order may exempt the
5 same from Sections 131.13 through 131.19.

6 ~~Any requirement for the furnishing of financial statements~~
7 ~~of the insurance holding company system, or any member thereof,~~
8 ~~as part of or in connection with the registration statement~~
9 ~~filed under Section 131.14 shall not apply to any company which~~
10 ~~submits and maintains in effect in lieu thereof a guarantee or~~
11 ~~a bond acceptable to the Director in an amount equal to the~~
12 ~~capital and surplus of the company as shown on its most recent~~
13 ~~audited financial statements, payable to the Director for the~~
14 ~~benefit of the creditors, policyholders and stockholders of the~~
15 ~~company as their interests may appear. Such guarantee, if~~
16 ~~issued by a national bank, and such a bond, if issued by a~~
17 ~~licensed insurance company which is not a member of the~~
18 ~~insurance holding company system, in each case having capital~~
19 ~~and surplus in excess of \$25,000,000, shall be deemed~~
20 ~~acceptable.~~

21 (Source: P.A. 77-673.)

22 (215 ILCS 5/131.19) (from Ch. 73, par. 743.19)

23 Sec. 131.19. Disclaimer of affiliation. Any person may file
24 with the Director a disclaimer of affiliation with any
25 authorized company or a disclaimer may be filed by the a

1 company or any member of an insurance holding company system.
2 The disclaimer shall ~~must~~ fully disclose all material
3 relationships and bases ~~basis~~ for affiliation between the
4 person and the company as well as the basis for disclaiming the
5 affiliation. A disclaimer of affiliation shall be deemed to
6 have been granted unless the Director, within 30 days following
7 receipt of a complete disclaimer, notifies the filing party
8 that the disclaimer is disallowed. In the event of
9 disallowance, the disclaiming party may request an
10 administrative hearing, which shall be granted. The
11 disclaiming party shall be relieved of its duty to register
12 under this Section if approval of the disclaimer has been
13 granted by the Director or if the disclaimer is deemed to have
14 been approved. After a disclaimer is filed, the company is
15 relieved of any duty to register or report under Section 131.13
16 which may arise out of the company's relationship with the
17 person unless and until the Director disallows the disclaimer.
18 The Director may disallow such a disclaimer only after
19 furnishing all parties in interest with notice and opportunity
20 to be heard and after making specific findings of fact to
21 support the disallowance.

22 (Source: P.A. 84-805.)

23 (215 ILCS 5/131.20) (from Ch. 73, par. 743.20)

24 Sec. 131.20. Standards for transactions with affiliates;
25 adequacy of surplus.

1 (1) Transactions ~~Material transactions~~ with their
2 affiliates by companies subject to registration are subject to
3 the following standards:

4 (a) the terms are fair and reasonable;

5 (a-5) agreements for cost sharing services and
6 management shall include such provisions as required by
7 rule by the Director;

8 (b) charges or fees for services performed are
9 reasonable;

10 (c) expenses incurred and payment received must be
11 allocated to the insurer in conformity with customary
12 insurance accounting practices consistently applied;

13 (d) the books, accounts, and records of each party must
14 be so maintained as to clearly and accurately disclose the
15 precise nature and details of the transactions, including
16 accounting information necessary to support the
17 reasonableness of the charges or fees to the respective
18 parties; and

19 (e) the company's surplus as regards policyholders
20 following any transactions with affiliates or dividends or
21 distributions to securityholders or affiliates must be
22 reasonable in relation to the company's outstanding
23 liabilities and adequate to meet its financial needs.

24 (2) For purposes of this Article, in determining whether a
25 company's surplus as regards policyholders is reasonable in
26 relation to the company's outstanding liabilities and adequate

1 to meet its needs, the following factors, among others, may be
2 considered:

3 (a) the size of the company as measured by its assets,
4 capital and surplus, reserves, premium writings, insurance
5 in force and other appropriate criteria;

6 (b) the extent to which the company's business is
7 diversified among ~~the~~ several lines of insurance;

8 (c) the number and size of risks insured in each line
9 of business;

10 (d) the extent of the geographical dispersion of the
11 company's insured risks;

12 (e) the nature and extent of the company's reinsurance
13 program;

14 (f) the quality, diversification, and liquidity of the
15 company's investment portfolio;

16 (g) the recent past and projected future trend in the
17 size of the company's investment portfolio ~~surplus as~~
18 ~~regards policyholders~~;

19 (h) the surplus as regards policyholders maintained by
20 companies comparable to the registrant in respect of the
21 factors enumerated in this paragraph;

22 (i) the adequacy of the company's reserves;

23 (j) the quality of the company's earnings and the
24 extent to which the reported earnings include
25 extraordinary items; and

26 (k) the quality and liquidity of investments in

1 ~~affiliates subsidiaries made under Section 131.2 or 131.3.~~

2 The Director may discount any such investment or treat any
3 such investment as a non-admitted asset for purposes of
4 determining the adequacy of surplus as regards
5 policyholders whenever the investment so warrants.

6 (Source: P.A. 88-364.)

7 (215 ILCS 5/131.20a) (from Ch. 73, par. 743.20a)

8 Sec. 131.20a. Prior notification of transactions;
9 dividends and distributions.

10 (1) (a) The following transactions involving ~~between~~ a
11 domestic company and any person in its insurance holding
12 company system, including amendments or modifications of
13 affiliate agreements previously filed pursuant to this
14 Section, which are subject to any materiality standards
15 contained in this Section, may not be entered into unless the
16 company has notified the Director in writing of its intention
17 to enter into such transaction at least 30 days prior thereto,
18 or such shorter period as the Director may permit, and the
19 Director has not disapproved it within such period. The notice
20 for amendments or modifications shall include the reasons for
21 the change and the financial impact on the domestic company.
22 Informal notice shall be reported, within 30 days after a
23 termination of a previously filed agreement, to the Director
24 for determination of the type of filing required, if any:

25 (i) Sales, purchases, exchanges of assets, loans or

1 extensions of credit, ~~guarantees,~~ investments, or any
2 other transaction, except dividends, ~~(A)~~ that involves the
3 transfer of assets from or liabilities to a company (A)
4 equal to or exceeding the lesser of 3% of the company's
5 admitted assets or 25% of its surplus as regards
6 policyholders as of the 31st day of December next preceding
7 or (B) that is proposed when the domestic company is not
8 eligible to declare and pay a dividend or other
9 distribution pursuant to the provisions of Section 27.

10 (ii) Loans or extensions of credit to any person that
11 is not an affiliate (A) that involve the lesser of 3% of
12 the company's admitted assets or 25% of the company's
13 surplus, each as of the 31st day of December next
14 preceding, made with the agreement or understanding that
15 the proceeds of such transactions, in whole or in
16 substantial part, are to be used to make loans or
17 extensions of credit to, to purchase assets of, or to make
18 investments in, any affiliate of the company making such
19 loans or extensions of credit or (B) that are proposed when
20 the domestic company is not eligible to declare and pay a
21 dividend or other distribution pursuant to the provisions
22 of Section 27.

23 (iii) Reinsurance agreements or modifications thereto,
24 including all reinsurance pooling agreements, reinsurance
25 agreements in which the reinsurance premium or a change in
26 the company's liabilities, or the projected reinsurance

1 premium or a change in the company's liabilities in any of
2 the next 3 years, equals or exceeds 5% of the company's
3 surplus as regards policyholders, as of the 31st day of
4 December next preceding, including those agreements that
5 may require as consideration the transfer of assets from an
6 insurer to a nonaffiliate, if an agreement or understanding
7 exists between the insurer and nonaffiliate that any
8 portion of those assets will be transferred to one or more
9 affiliates of the insurer.

10 (iv) All management agreements, service contracts,
11 other than agency contracts, tax allocation agreements,
12 reinsurance allocation agreements related to reinsurance
13 agreements required to be filed under this Section, and
14 cost-sharing arrangements, ~~and any other contracts~~
15 ~~providing for the rendering of services on a regular~~
16 ~~systematic basis.~~

17 (v) Guarantees when made by a domestic insurer;
18 provided, however, that a guarantee that is quantifiable as
19 to amount is not subject to the notice requirements of this
20 paragraph (v) unless it exceeds the lesser of 0.5% of the
21 insurer's admitted assets or 10% of surplus as regards
22 policyholders as of the 31st day of December next
23 preceding. Further, all guarantees that are not
24 quantifiable as to amount are subject to the notice
25 requirements of this paragraph (v);

26 (vi) Direct or indirect acquisitions or investments in

1 a person that controls the insurer, or in an affiliate of
2 the insurer, in an amount which, together with its present
3 holdings in such investments, exceeds 2.5% of the insurer's
4 surplus as regards policyholders. Direct or indirect
5 acquisitions or investments in subsidiaries acquired
6 pursuant to Section 131.2 of this Article (or authorized
7 under any other Section of this Code), or in non-subsiary
8 insurance affiliates that are subject to the provisions of
9 this Article, are exempt from this requirement.

10 (vii) Any series of the previously described
11 transactions that are substantially similar to each other,
12 that take place within any 180 day period, and that in
13 total are equal to or exceed the lesser of 3% of the
14 domestic insurer's admitted assets or 25% of its
15 policyholders surplus, as of the 31st day of the December
16 next preceding.

17 viii ~~(vi)~~ Any other material transaction that the
18 Director by rule determines might render the company's
19 surplus as regards policyholders unreasonable in relation
20 to the company's outstanding liabilities and inadequate to
21 its financial needs or may otherwise adversely affect the
22 interests of the company's policyholders or shareholders.

23 Nothing herein contained shall be deemed to authorize or
24 permit any transactions that, in the case of an insurer not a
25 member of the same holding company system, would be otherwise
26 contrary to law.

1 (b) Any transaction or contract otherwise described in
2 paragraph (a) of this subsection that is between a domestic
3 insurer and any person that is not its affiliate and that
4 precedes or follows within 180 days or is concurrent with a
5 similar transaction between that nonaffiliate and an affiliate
6 of the domestic company and that involves amounts that are
7 equal to or exceed the lesser of 3% of the domestic insurer's
8 admitted assets or 25% of its surplus as regards policyholders
9 at the end of the prior year may not be entered into unless the
10 company has notified the Director in writing of its intention
11 to enter into the transaction at least 30 days prior thereto or
12 such shorter period as the Director may permit, and the
13 Director has not disapproved it within such period.

14 (c) A company may not enter into transactions which are
15 part of a plan or series of like transactions with any person
16 within the holding company system if the purpose of those
17 separate transactions is to avoid the statutory threshold
18 amount and thus avoid the review that would occur otherwise. If
19 the Director determines that such separate transactions were
20 entered into for such purpose, he may exercise his authority
21 under subsection (2) of Section 131.24.

22 (d) The Director, in reviewing transactions pursuant to
23 paragraph (a), shall consider whether the transactions comply
24 with the standards set forth in Section 131.20 and whether they
25 may adversely affect the interests of policyholders.

26 (e) The Director shall be notified within 30 days of any

1 investment of the domestic insurer in any one corporation if
2 the total investment in that corporation by the insurance
3 holding company system exceeds 10% of that corporation's voting
4 securities.

5 (f) Except for those transactions subject to approval under
6 other Sections of this Code, any such transaction or agreements
7 which are not disapproved by the Director may be effective as
8 of the date set forth in the notice required under this
9 Section.

10 (g) If a domestic insurer enters into a transaction
11 described in this subsection without having given the required
12 notification, the Director may cause the insurer to pay a civil
13 forfeiture of not more than \$250,000. Each transaction so
14 entered shall be considered a separate offense.

15 (2) No domestic company subject to registration under
16 Section 131.13 may pay any extraordinary dividend or make any
17 other extraordinary distribution to its shareholders
18 ~~securityholders~~ until: (a) 30 days after the Director has
19 received notice of the declaration thereof and has not within
20 such period disapproved the payment, or (b) the Director
21 approves such payment within the 30-day period. For purposes of
22 this subsection, an extraordinary dividend or distribution is
23 any dividend or distribution of cash or other property whose
24 fair market value, together with that of other dividends or
25 distributions, made within the period of 12 consecutive months
26 ending on the date on which the proposed dividend is scheduled

1 for payment or distribution exceeds the greater of: (a) 10% of
2 the company's surplus as regards policyholders as of the 31st
3 day of December next preceding, or (b) the net income of the
4 company for the 12-month period ending the 31st day of December
5 next preceding, but does not include pro rata distributions of
6 any class of the company's own securities.

7 Notwithstanding any other provision of law, the company may
8 declare an extraordinary dividend or distribution which is
9 conditional upon the Director's approval, and such a
10 declaration confers no rights upon security holders until: (a)
11 the Director has approved the payment of the dividend or
12 distribution, or (b) the Director has not disapproved the
13 payment within the 30-day period referred to above.

14 (Source: P.A. 92-140, eff. 7-24-01.)

15 (215 ILCS 5/131.20b)

16 Sec. 131.20b. Controlled insurers; management; directors.

17 (1) Notwithstanding the control of a domestic insurer by
18 any person, the officers and directors of the insurer shall not
19 thereby be relieved of any obligation or liability to which
20 they would otherwise be subject by law, and the insurer shall
21 be managed so as to assure its separate operating identity
22 consistent with this Article ~~VIII 1/2 of this Code~~.

23 (2) Nothing in this Section shall preclude a domestic
24 insurer from having or sharing a common management or a
25 cooperative or joint use of personnel, property, or services

1 with one or more affiliated persons under arrangements meeting
2 the standards and requirements of Sections 131.20 and 131.20a.

3 (3) ~~Not After June 30, 2002, not~~ less than one-third of the
4 directors of a domestic company, and not less than one-third of
5 the members of each committee of the board of directors of any
6 domestic company, insurer that is a member of an insurance
7 holding company system shall be persons who are not officers or
8 employees of the insurer or of any entity controlling,
9 controlled by, or under common control with the insurer and who
10 are not beneficial owners of a controlling interest in the
11 voting stock of the insurer or any such entity. At least one
12 such person shall be included in any quorum for the transaction
13 of business at any meeting of the board of directors or any
14 committee thereof.

15 (3.5) The board of directors of a domestic company shall
16 establish one or more committees comprised solely of directors
17 who are not officers or employees of the company or of any
18 entity controlling, controlled by, or under common control with
19 the company and who are not beneficial owners of a controlling
20 interest in the voting stock of the company or any such entity.
21 The committee or committees shall have responsibility for
22 nominating candidates for director for election by
23 shareholders or policyholders, evaluating the performance of
24 officers deemed to be principal officers of the company, and
25 recommending to the board of directors the selection and
26 compensation of the principal officers.

1 (4) ~~Subsections~~ ~~Subsection~~ (3) and (3.5) of this Section do
2 ~~does~~ not apply to a domestic company insurer if the person
3 entity controlling the company, such as a company, a mutual
4 insurance holding company, or a publicly held corporation, has
5 a board of directors and committees thereof that meet the
6 requirements of subsections (3) and (4) with respect to such
7 controlling entity ~~the insurer, whether directly or through an~~
8 ~~intermediate subsidiary~~, has a board of directors composed in
9 accordance with that subsection.

10 (5) (Blank). ~~Subsection (3) of this Section does not apply~~
11 ~~to a domestic insurer if the ultimate controlling party of the~~
12 ~~domestic insurer is a corporation whose equity securities or~~
13 ~~equivalent instruments are listed on the New York Stock~~
14 ~~Exchange.~~

15 (6) A company may make application to the Director for a
16 waiver from the requirements of this Section, if the company's
17 annual direct written and assumed premium, excluding premiums
18 reinsured with the Federal Crop Insurance Corporation and
19 Federal Flood Program, is less than \$300,000,000. A company may
20 also make application to the Director for a waiver from the
21 requirements of this subsection (6) based upon unique
22 circumstances. The Director may consider various factors,
23 including, but not limited to, the type of business entity,
24 volume of business written, availability of qualified board
25 members, or the ownership or organizational structure of the
26 entity.

1 (Source: P.A. 92-140, eff. 7-24-01.)

2 (215 ILCS 5/131.20c new)

3 Sec. 131.20c. Supervisory colleges.

4 (a) With respect to any company registered under Section
5 131.4 of this Code, and in accordance with subsection (c) of
6 this Section, the Director shall also have the power to
7 participate in a supervisory college for any domestic company
8 that is part of an insurance holding company system with
9 international operations in order to determine compliance by
10 the company with this Article. The powers of the Director with
11 respect to supervisory colleges include, but are not limited
12 to:

13 (1) initiating the establishment of a supervisory
14 college;

15 (2) clarifying the membership and participation of
16 other supervisors in the supervisory college;

17 (3) clarifying the functions of the supervisory
18 college and the role of other regulators, including the
19 establishment of a group-wide supervisor;

20 (4) coordinating the ongoing activities of the
21 supervisory college, including planning meetings,
22 supervisory activities, and processes for information
23 sharing; and

24 (5) establishing a crisis management plan.

25 (b) Each registered company subject to this Section shall

1 be liable for and shall pay the reasonable expenses of the
2 Director's participation in a supervisory college in
3 accordance with subsection (c) of this Section, including
4 reasonable travel expenses. For purposes of this Section, a
5 supervisory college may be convened as either a temporary or
6 permanent forum for communication and cooperation between the
7 regulators charged with the supervision of the company or its
8 affiliates, and the Director may establish a regular assessment
9 to the insurer for the payment of these expenses.

10 (c) In order to assess the business strategy, financial
11 position, legal and regulatory position, risk exposure, risk
12 management, and governance processes, and as part of the
13 examination of individual companies, the Director may
14 participate in a supervisory college with other regulators
15 charged with supervision of the company or its affiliates,
16 including other state, federal, and international regulatory
17 agencies. The Director may enter into agreements providing the
18 basis for cooperation between the Director and the other
19 regulatory agencies and the activities of the supervisory
20 college. Nothing in this Section shall delegate to the
21 supervisory college the authority of the Director to regulate
22 or supervise the company or its affiliates within its
23 jurisdiction.

24 (215 ILCS 5/131.21) (from Ch. 73, par. 743.21)

25 Sec. 131.21. Examination.

1 (1) Subject to the limitation contained in this section and
2 in addition to the powers which the Director has under Sections
3 132 through 132.7 and 401 through 403 of this Code relating to
4 the examination of companies, the Director shall have the power
5 to examine any insurer registered under Section 131.13 of this
6 Code and its affiliates to ascertain the financial condition of
7 the company, including the enterprise risk to the company by
8 the ultimate controlling party, or by any entity or combination
9 of entities within the insurance holding company system, or by
10 the insurance holding company system on a consolidated basis.
11 ~~also has the power to order any company registered under~~
12 ~~Section 131.13 to produce such records, books, or other~~
13 ~~information papers in the possession of the company or its~~
14 ~~affiliates as are reasonably necessary to ascertain the~~
15 ~~financial condition of such company or to determine compliance~~
16 ~~with this Article. In the event the company fails to comply~~
17 ~~with the order, the Director has the power to examine the~~
18 ~~affiliates to obtain such information.~~

19 (1.5) The Director may order any company registered under
20 Section 131.13 of this Code to produce such records, books, or
21 other information papers in the possession of the company or
22 its affiliates as are reasonably necessary to determine
23 compliance with this Article. To determine compliance with this
24 Article, the Director may order any company registered under
25 Section 131.13 of this Code to produce information not in the
26 possession of the company if the company can obtain access to

1 such information pursuant to contractual relationships,
2 statutory obligations, or other methods. In the event the
3 company cannot obtain the information requested by the
4 Director, the company shall provide the Director a detailed
5 explanation of the reason that the company cannot obtain the
6 information and the identity of the holder of the information.
7 Whenever it appears to the Director that the detailed
8 explanation is without merit, the Director may require, after
9 notice and hearing, the company to pay a penalty of up to
10 \$1,000 for each day's delay, or may suspend or revoke the
11 company's license.

12 (2) The Director may retain at the registered company's
13 expense any attorneys, actuaries, accountants and other
14 experts not otherwise a part of the Director's staff as may be
15 reasonably necessary to assist in the conduct of the
16 examination under subsection (1). Any persons so retained are
17 under the direction and control of the Director and may act in
18 a purely advisory capacity.

19 (3) Each registered company producing for examination
20 records, books and papers under subsection (1.5) ~~(1)~~ is liable
21 for and must pay the expense of the examination in accordance
22 with Section 408 of this Code.

23 (4) In the event the company fails to comply with an order,
24 the Director shall have the power to examine the affiliates to
25 obtain the information. The Director shall also have the power
26 to issue subpoenas, to administer oaths, and to examine under

1 oath any person for purposes of determining compliance with
2 this Section. Upon the failure or refusal of any person to obey
3 a subpoena, the Director may petition a court of competent
4 jurisdiction and, upon proper showing, the court may enter an
5 order compelling the witness to appear and testify or produce
6 documentary evidence. Failure to obey the court order shall be
7 punishable as contempt of court. Every person shall be obliged
8 to attend as a witness at the place specified in the subpoena,
9 when subpoenaed, anywhere within the State. He or she shall be
10 entitled to the same fees and mileage, if claimed, as a witness
11 in the Circuit Court, which fees, mileage, and actual expense,
12 if any, necessarily incurred in securing the attendance of
13 witnesses, and their testimony, shall be itemized and charged
14 against, and be paid by, the company being examined.

15 (Source: P.A. 89-97, eff. 7-7-95.)

16 (215 ILCS 5/131.22) (from Ch. 73, par. 743.22)

17 Sec. 131.22. Confidential treatment.

18 (a) Documents, materials, or other information in the
19 possession or control of the Department that are obtained by or
20 disclosed to the Director or any other person in the course of
21 an examination or investigation made pursuant to this Article
22 and all information reported pursuant to this Article shall be
23 confidential by law and privileged, shall not be subject to the
24 Illinois Freedom of Information Act, shall not be subject to
25 subpoena, and shall not be subject to discovery or admissible

1 in evidence in any private civil action. However, the Director
2 is authorized to use the documents, materials, or other
3 information in the furtherance of any regulatory or legal
4 action brought as a part of the Director's official duties. The
5 Director shall not otherwise make the documents, materials, or
6 other information public without the prior written consent of
7 the company to which it pertains unless the Director, after
8 giving the company and its affiliates who would be affected
9 thereby notice and opportunity to be heard, determines that the
10 interest of policyholders, shareholders, or the public shall be
11 served by the publication thereof, in which event the Director
12 may publish all or any part in such manner as may be deemed
13 appropriate.

14 (b) Neither the Director nor any person who received
15 documents, materials, or other information while acting under
16 the authority of the Director or with whom such documents,
17 materials, or other information are shared pursuant to this
18 Code shall be permitted or required to testify in any private
19 civil action concerning any confidential documents, materials,
20 or information subject to subsection (a) of this Section.

21 (c) In order to assist in the performance of the Director's
22 duties, the Director:

23 (1) may share documents, materials, or other
24 information, including the confidential and privileged
25 documents, materials, or information subject to subsection
26 (a) of this Section, with other state, federal, and

1 international regulatory agencies, with the NAIC and its
2 affiliates and subsidiaries, and with state, federal, and
3 international law enforcement authorities, including
4 members of any supervisory college allowed by this Article,
5 provided that the recipient agrees in writing to maintain
6 the confidentiality and privileged status of the document,
7 material, or other information, and has verified in writing
8 the legal authority to maintain confidentiality;
9 notwithstanding this paragraph (1), the Director may only
10 share confidential and privileged documents, material, or
11 information reported pursuant to Section 131.20c with
12 commissioners of states having statutes or regulations
13 substantially similar to subsection (a) of this Section and
14 who have agreed in writing not to disclose such
15 information;

16 (2) may receive documents, materials, or information,
17 including otherwise confidential and privileged documents,
18 materials, or information from the NAIC and its affiliates
19 and subsidiaries and from regulatory and law enforcement
20 officials of other foreign or domestic jurisdictions, and
21 shall maintain as confidential or privileged any document,
22 material, or information received with notice or the
23 understanding that it is confidential or privileged under
24 the laws of the jurisdiction that is the source of the
25 document, material, or information; and

26 (3) shall enter into written agreements with the NAIC

1 governing sharing and use of information provided pursuant
2 to this Code consistent with this subsection (c) that shall
3 (i) specify procedures and protocols regarding the
4 confidentiality and security of information shared with
5 the NAIC and its affiliates and subsidiaries pursuant to
6 this Code, including procedures and protocols for sharing
7 by the NAIC with other state, federal, or international
8 regulators; (ii) specify that ownership of information
9 shared with the NAIC and its affiliates and subsidiaries
10 pursuant to this Code remains with the Director and the
11 NAIC's use of the information is subject to the direction
12 of the Director; (iii) require prompt notice to be given to
13 an insurer whose confidential information in the
14 possession of the NAIC pursuant to this Code is subject to
15 a request or subpoena to the NAIC for disclosure or
16 production; and (iv) require the NAIC and its affiliates
17 and subsidiaries to consent to intervention by an insurer
18 in any judicial or administrative action in which the NAIC
19 and its affiliates and subsidiaries may be required to
20 disclose confidential information about the insurer shared
21 with the NAIC and its affiliates and subsidiaries pursuant
22 to this Code.

23 (d) The sharing of information by the Director pursuant to
24 this Code shall not constitute a delegation of regulatory
25 authority or rulemaking, and the Director is solely responsible
26 for the administration, execution, and enforcement of the

1 provisions of this Code.

2 (e) No waiver of any applicable privilege or claim of
3 confidentiality in the documents, materials, or information
4 shall occur as a result of disclosure to the Director under
5 this Section or as a result of sharing as authorized in
6 subsection (c) of this Section.

7 (f) Documents, materials, or other information in the
8 possession or control of the NAIC pursuant to this Code shall
9 be confidential by law and privileged, shall not be subject to
10 the Illinois Freedom of Information Act, shall not be subject
11 to subpoena, and shall not be subject to discovery or
12 admissible in evidence in any private civil action. All
13 information, documents, and copies thereof obtained by or
14 disclosed to the Director or any other person in the course of
15 an examination or investigation made under Section 131.21 and
16 all information submitted under Sections 131.13 or 131.20a and
17 all personal financial statement information submitted under
18 Section 131.5 must be given confidential treatment and is not
19 subject to subpoena and may not be made public by the Director
20 or any other person, without the prior written consent of the
21 company to which it pertains unless the Director, after giving
22 the company and its affiliates who would be affected thereby
23 notice and opportunity to be heard, determines that the
24 interests of policyholders, shareholders or the public will be
25 served by the publication thereof in which event he may publish
26 all or any part thereof in such manner as he may deem

1 ~~appropriate.~~

2 ~~Nothing contained in this Section shall prevent or be~~
3 ~~construed as prohibiting the Director from disclosing such~~
4 ~~information to the insurance department of any other state or~~
5 ~~county or to law enforcement officials of this or any other~~
6 ~~state or agency of the federal government at any time upon the~~
7 ~~written agreement of the entity receiving the information to~~
8 ~~hold that information confidential and in a manner consistent~~
9 ~~with this Code.~~

10 (Source: P.A. 88-364.)

11 (215 ILCS 5/131.24) (from Ch. 73, par. 743.24)

12 Sec. 131.24. Sanctions.

13 (1) Every director or officer of an insurance holding
14 company system who knowingly violates, participates in, or
15 assents to, or who knowingly permits any of the officers or
16 agents of the company to engage in transactions or make
17 investments which have not been properly filed or approved or
18 which violate this Article, shall pay, in their individual
19 capacity, a civil forfeiture of not more than \$100,000 per
20 violation, after notice and hearing before the Director. In
21 determining the amount of the civil forfeiture, the Director
22 shall take into account the appropriateness of the forfeiture
23 with respect to the gravity of the violation, the history of
24 previous violations, and such other matters as justice may
25 require.

1 (2) Whenever it appears to the Director that any company
2 subject to this Article or any director, officer, employee or
3 agent thereof has engaged in any transaction or entered into a
4 contract which is subject to Section 131.20, and any one of
5 Sections 131.16, 131.20a, 141, 141.1, or 174 of this Code and
6 which would not have been approved had such approval been
7 requested or would have been disapproved had required notice
8 been given, the Director may order the company to cease and
9 desist immediately any further activity under that transaction
10 or contract. After notice and hearing the Director may also
11 order (a) the company to void any such contracts and restore
12 the status quo if such action is in the best interest of the
13 policyholders or the public, and (b) any affiliate of the
14 company, which has received from the company dividends,
15 distributions, assets, loans, extensions of credit,
16 guarantees, or investments in violation of any such Section, to
17 immediately repay, refund or restore to the company such
18 dividends, distributions, assets, extensions of credit,
19 guarantees or investments.

20 (3) Whenever it appears to the Director that any company or
21 any director, officer, employee or agent thereof has committed
22 a willful violation of this Article, the Director may cause
23 criminal proceedings to be instituted in the Circuit Court for
24 the county in which the principal office of the company is
25 located or in the Circuit Court of Sangamon or Cook County
26 against such company or the responsible director, officer,

1 employee or agent thereof. Any company which willfully violates
2 this Article commits a business offense and may be fined up to
3 \$500,000. Any individual who willfully violates this Article
4 commits a Class 4 felony and may be fined in his individual
5 capacity not more than \$500,000 or be imprisoned for not less
6 than one year nor more than 3 years, or both.

7 (4) Any officer, director, or employee of an insurance
8 holding company system who willfully and knowingly subscribes
9 to or makes or causes to be made any false statements or false
10 reports or false filings with the intent to deceive the
11 Director in the performance of his duties under this Article,
12 commits a Class 3 felony and upon conviction thereof, shall be
13 imprisoned for not less than 2 years nor more than 5 years or
14 fined \$500,000 or both. Any fines imposed shall be paid by the
15 officer, Director, or employee in his individual capacity.

16 (5) Whenever it appears to the Director that any person has
17 committed a violation of Section 131.20c of this Code which
18 prevents the full understanding of the enterprise risk to the
19 insurer by affiliates or by the insurance holding company
20 system, the violation may serve as an independent basis for
21 disapproving dividends or distributions and for placing the
22 insurer under an order of supervision.

23 (Source: P.A. 93-32, eff. 7-1-03.)

24 (215 ILCS 5/131.27) (from Ch. 73, par. 743.27)

25 Sec. 131.27. Judicial review.

1 (1) Any order or decision made, issued or executed by the
2 Director under this Article whereby any person or company is
3 aggrieved is subject to review by the Circuit Court of Sangamon
4 County.

5 The Administrative Review Law, as now or hereafter amended,
6 and the rules adopted pursuant thereto, applies to and governs
7 all proceedings for review of final administrative decisions of
8 the Director provided for in this Section. The term
9 "administrative decision" is defined as in Section 3-101 of the
10 Code of Civil Procedure.

11 (2) The filing of an appeal pursuant to this Section shall
12 stay the application of any rule, regulation, order, or other
13 action of the Director to the appealing party unless the court,
14 after giving the party notice and an opportunity to be heard,
15 determines that a stay would be detrimental to the interest of
16 policyholders, shareholders, creditors, or the public.

17 (3) Any person aggrieved by any failure of the Director to
18 act or make a determination required by this Code may petition
19 for a writ in the nature of a mandamus or a peremptory mandamus
20 directing the Director to act or make a determination.

21 (Source: P.A. 82-783.)

22 (215 ILCS 5/131.9 rep.)

23 Section 10. The Illinois Insurance Code is amended by
24 repealing Section 131.9.

1 Section 97. Severability. The provisions of this Act are
2 severable under Section 1.31 of the Statute on Statutes.

3 Section 99. Effective date. This Act takes effect January
4 1, 2013.

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6	215 ILCS 5/131.4	from Ch. 73, par. 743.4
7	215 ILCS 5/131.5	from Ch. 73, par. 743.5
8	215 ILCS 5/131.6	from Ch. 73, par. 743.6
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- 1 215 ILCS 5/131.20c new
- 2 215 ILCS 5/131.21 from Ch. 73, par. 743.21
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- 4 215 ILCS 5/131.24 from Ch. 73, par. 743.24
- 5 215 ILCS 5/131.27 from Ch. 73, par. 743.27
- 6 215 ILCS 5/131.9 rep.